

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
Wheeling Division**

**ANTHONY R. THOMAS, and  
ERICA D. THOMAS,**

*Plaintiffs,*

v.

Civil Action No. 5:17-cv-120 (Stamp)

**NATIONSTAR MORTGAGE LLC,  
FORTRESS INVESTMENT GROUP, and  
JOHN DOE,**

*Defendants.*

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF WEST VIRGINIA AND TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendants Nationstar Mortgage LLC (“Nationstar”), and Fortress Investment Group (“Fortress”; collectively “Defendants”), by counsel, hereby removes this action from the Circuit Court of the County of Wetzel County, West Virginia, to the United States District Court for the Northern District of West Virginia, Wheeling Division. Jurisdiction of this Court is proper because this Court has original jurisdiction over the case by way of federal question jurisdiction pursuant to 28 U.S.C. § 1331. In support thereof, Defendants state as follows:

**I. BACKGROUND**

1. On June 29, 2017, Plaintiffs Anthony R. Thomas and Erica D. Thomas (“Plaintiffs”) filed an action against Nationstar, Fortress, and John Doe, in the Circuit Court of Wetzel County, West Virginia in an action styled *Anthony R. Thomas, et al., v. Nationstar Mortgage LLC, et al.*, Case No. CL17-C-49 (the “State Court Action”).

ELECTRONICALLY  
FILED  
Aug 04 2017  
U.S. DISTRICT COURT  
Northern District of WV

2. A copy of the State Court docket, Complaint, and other filings, are attached hereto as **Exhibit A**.

3. Nationstar was served with process on July 6, 2017.

4. Fortress was served with process on July 25, 2017.

5. This Notice of Removal is being filed within thirty days of Defendants' receipt of the Complaint and within one (1) year of the action's commencement date, making the action timely removed pursuant to 28 U.S.C. § 1446(b), (c)(1).

6. A true and correct copy of this Notice of Removal will promptly be filed in the Circuit Court of the County of Wetzel, West Virginia. A true and correct copy of the Notice of Filing of Notice of Removal is attached as **Exhibit B**.

7. The action is factually premised upon Plaintiffs' default on the loan (the "Loan"), secured by real property they own located in Paden City, Wetzel County, West Virginia (the "Property"), and Plaintiffs' alleged payoff of the Loan. [**Ex. A** ¶¶ 4, 6, 8–13.]

8. In the Complaint, Plaintiffs allege, among other things, violations of the Fair Debt Collections Practices Act ("FDCPA"), 15 U.S.C. §§ 1692–1692p; the Home Mortgage Disclosure Act ("HMDA"), 12 U.S.C. §§ 2801–2811; the Equal Credit Opportunity Act ("ECOA"), 15 U.S.C. § 1691 *et seq.*; and the Fair Housing Act ("FHA"), 42 U.S.C. §§ 3601–3619. [*Id.* ¶¶ 19–20.]

9. Defendants deny the allegations in the Complaint, denies that Plaintiffs have stated any claim for which relief may be granted, and denies that Plaintiffs have suffered damages in any manner whatsoever. Nevertheless, assuming for jurisdictional purposes only that Plaintiffs' claims are valid, Plaintiffs could have filed the Complaint in this Court under federal question jurisdiction.

## **II. FEDERAL JURISDICTION**

10. Plaintiffs' claims arise out of the Loan serviced by Nationstar. In the Complaint, Plaintiffs allege violations of unspecified section of the Fair Debt Collections Practices Act ("FDCPA"), 15 U.S.C. §§ 1692–1692p; the Home Mortgage Disclosure Act ("HMDA"), 12 U.S.C §§ 2801–2811; the Equal Credit Opportunity Act ("ECOA"), 15 U.S.C. § 1691 *et seq.*; and the Fair Housing Act ("FHA"), 42 U.S.C. §§ 3601–3619. [*Id.* ¶¶ 19–20.]

11. Specifically, Plaintiffs allege that "Defendants continued to engage in illegal and unfair collection practices in an attempt to collect a debt that is no longer owed" and that the Defendants failed to accept a payment to pay off the Loan. [*Id.* ¶¶ 4, 6, 8–13, 19.]

12. Plaintiffs also appear to allege a claim under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681 *et seq.*, because Plaintiffs allege that "the Defendants have continued to report to all major credit bureaus" about the Loan. [*Id.* ¶ 14.]

13. Pursuant to 28 U.S.C. § 1331, federal question jurisdiction exists over this action because Plaintiffs' allegations require resolving issues that arise under the FDCPA, the HMDA, the ECOA, the FHA, and possibly the FCRA. Particularly, this matter necessitates the application of federal law, and that federal law determines the rights and liabilities of the parties, which warrants a proper exercise of federal question jurisdiction.

14. Because there is federal question jurisdiction over the claims as discussed above, this Court also has supplemental jurisdiction over all other remaining state law claims because those claims stem from the same operative facts and are so related that they form part of the same case or controversy. *See* 28 U.S.C. § 1367. Accordingly, this case is removable.

### III. VENUE

15. Venue for removal is proper in this district and division under 28 U.S.C. § 1441(a), because this district and division embrace the Circuit Court for the County of Wetzel, West Virginia, the forum in which the removed action was pending.

WHEREFORE, for the reasons stated above, Defendants Nationstar Mortgage LLC and Fortress Investment Group respectfully request that the above-referenced case now pending in the Circuit Court for the County of Wetzel, West Virginia be removed to the United States District Court for the Northern District of West Virginia, Wheeling Division.

Dated: August 4, 2017

Respectfully submitted,

**NATIONSTAR MORTGAGE LLC and  
FORTRESS INVESTMENT GROUP**

By: /s/ Massie Payne Cooper  
Of Counsel

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*Counsel for Defendants Nationstar Mortgage LLC  
and Fortress Investment Group*

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Civil Action No. \_\_\_\_\_

**NATIONSTAR MORTGAGE LLC,  
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JOHN DOE,**

*Defendants.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 4th day of August, 2017, a true and correct copy of the foregoing Notice of Removal was electronically filed with the Clerk of the Court using the CM/ECF system, and I further certify that a copy was sent via first class mail, postage prepaid, to the following counsel of record:

**Counsel for Plaintiffs**  
Kevin L. Neiswonger  
Neiswonger and White  
409 Morton Avenue  
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\_\_\_\_\_  
/s/ Massie Payne Cooper  
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